

August 2, 2007

James Elliott
Velikanje, Moore & Shore, P.S.
405 East Lincoln Avenue
P.O. Box 22550
Yakima, WA 98907

RE: Carmen Pedersen v. Central Washington University
Director's Review Request HEU No. 4639

Dear Mr. Elliott:

On April 30, 2007, I conducted a Director's review meeting by telephone conference call regarding the allocation of Ms. Pedersen's position. Present during the conference call were you and Ms. Pedersen; Rachelle Wills, Assistant Attorney General, representing Central Washington University (CWU); also from CWU were Karla Shugart, Administrator of Employment Relations; Angela Beaudry, Director of Human Resources Operations, Tom Henderson, Director of Testing and Assessment, and Linda Beath, Associate Vice President for Undergraduate Studies.

Background

By letter dated May 18, 2006, Ms. Shugart, then Associate Director for Employment and Staff Personnel Services, notified Ms. Pedersen the university was reallocating her Program Support Supervisor 1 position to a Secretary position, effective June 16, 2006. Ms. Shugart based her decision to reallocate on a revised position description (PD) for Ms. Pedersen's position, dated June 2006 (Exhibit 16). During the Director's review conference, Dr. Beath explained the reason for Ms. Pedersen's revised PD was due to a reorganization of the Office of Testing and Assessment. In summary, Dr. Beath stated the changes resulted from an ongoing effort since 1999 to address CWU's assessment efforts and hire an Assistant Director with an educational background in test administration.

Prior to the reallocation leading to this Director's review, Ms. Pedersen had submitted a Position Questionnaire (PQ) to CWU's Human Resources Office on February 25, 2005, requesting her position, then a Program Assistant, be reallocated to the position of Program Support Supervisor II. At that time, CWU reviewed Ms. Pedersen's position and determined it should be reallocated to an Office Support Supervisor I. Ms. Pedersen appealed that decision to the Department of Personnel (DOP), and on April 27, 2006, DOP issued a determination indicating Ms. Pedersen's position should be reallocated to the Program Support Supervisor I classification.

In early May 2006, shortly after receiving DOP's April 27 determination, Ms. Pedersen learned that her position was going to be reallocated downward. On June 13, 2006, DOP received Ms. Pedersen's request for a Director's review of CWU's decision (May 18, 2006 letter, Exhibit 14) to reallocate her newly reallocated Program Support Supervisor I position to the Secretary classification.

Summary of Ms. Pedersen's Perspective

Ms. Pedersen contends the Department of Personnel reviewed the duties and responsibilities of her position and determined the Program Support Supervisor I was the appropriate classification. Ms. Pedersen states that less than two weeks after receiving DOP's decision, the university decided to reallocate her position downward. Ms. Pedersen asserts CWU had an avenue for appealing DOP's decision but instead decided to downgrade her position to a Secretary. Further, Ms. Pedersen asserts a previous review by CWU in 2001 indicated her position was not consistent with the Secretary class series. Ms. Pedersen asserts she has extensive knowledge regarding the testing processes and states she trained the Assistant Director on portions of the test administration functions. Additionally, Ms. Pedersen claims she is one of two people required to be present during test administration. Ms. Pedersen contends she performs much more than secretarial duties and asserts at least one-third of her time is spent administering a variety of tests. In addition, Ms. Pedersen claims the university did not adjust her salary after DOP reallocated her position (Exhibit 19) and asserts she should be properly compensated and appropriately classified for the work she performs. Ms. Pedersen believes she should be allocated to the Program Support Supervisor series, based on DOP's earlier assessment.

Summary of CWU's Reasoning

CWU contends Ms. Pedersen's position was reallocated downward as part of a reorganization within the Office of Testing and Assessment. CWU further contends the planning of the reorganization had been ongoing for a long period of time in efforts to hire an Assistant Director with an educational background for testing and assessment beyond the procedural aspects. While CWU acknowledges Ms. Pedersen's knowledge of testing and assessment is beneficial to the department, CWU contends her role is

primarily limited to supporting the Assistant Director and handling the reception desk by checking in students and getting them set up for various tests. While CWU agrees Ms. Pedersen has a back-up role in administering tests when the administrator is out, CWU describes that function as much less than one-third of her time. CWU states Ms. Pedersen's position is more in line with the secretarial classes because she supports the Assistant Director with functions like scheduling, reviewing and monitoring invoices, performing office functions, and providing the clerical aspects of test administration such as check-in procedures and scanning tests for results. Additionally, CWU asserts Ms. Pedersen no longer supervises student employees because they report to the Assistant Director. CWU believes Ms. Pedersen's position is appropriately allocated to the Secretary classification.

Director's Determination

This position review was based on the duties and responsibilities assigned to Ms. Pedersen's position, effective June 16, 2006, the date establishing the changes in work assigned to her position. Although, DOP had previously issued an allocation determination, this Director's review is based on CWU's May 18, 2006 decision to reallocate Ms. Pedersen's position downward.

As the Director's designee, I carefully considered all of the documentation in the file, including the Director's review request and attachments received on June 13, 2006, the exhibits presented during the Director's review meeting, and the verbal comments provided by both parties. Based on my review and analysis of Ms. Pedersen's assigned duties and responsibilities, I conclude her position is properly allocated to the Secretary classification.

Rationale for Determination

During the Director's review conference, Dr. Beath explained management's reasons for reorganizing the Office of Student Testing and Assessment, which had been an ongoing process. She also discussed the restructure of positions in a March 8, 2005 email to Ms. Shugart (Exhibit 18). While it is unfortunate DOP's prior determination was issued shortly before Ms. Pedersen received notification of her position's downward reallocation, I conclude the two actions were separate and distinct.

In her May 18, 2006 reallocation letter to Ms. Pedersen, Ms. Shugart provided Ms. Pedersen with the option of remaining in the position and being placed on layoff lists for classes in which she held permanent status, including Program Support Supervisor I, or vacating the position, in which case layoff procedures would have applied. WAC 357-46-010 states, "[e]mployees may be laid off without prejudice according to layoff procedures . . ." for reasons including organizational change. Because Ms. Pedersen remained in the position, layoff procedures did not apply.

It is important to note, however, the former Personnel Appeals Board (PAB) consistently held that "it could not second guess management decisions with respect to a layoff" Cowden v. University of Washington, PAB No. L93-038 (1994) (Condon, Hrgs, Exam). In Cowden, the layoff was due to lack of funds, not reorganization; however, the same philosophy regarding management's discretion applied. The situation in Ms. Pedersen's case is similar in that management has the discretion to restructure positions, in part, due to good faith reorganization. As a result, Ms. Pedersen's revised PD illustrating her assigned duties and responsibilities is the basis for her position's allocation.

In reviewing the revised PD, the job summary reads, "[t]his position exists to organize and perform work related to the daily administrative office needs of the Director and Assistant Director" (Exhibit 16). Further, the position provides clerical support to the Director and Assistant Director of Testing and Assessment, which includes:

- Maintaining supervisor's calendar;
- Answering general office telephone line and email account;
- Greeting visitors and responding to customer queries;
- Scheduling appointments;
- Signing up clients to take various tests;
- Arranging meetings and travel;
- Maintaining current testing records as well as office files.

The assigned duties are further broken out as follows:

50% Office Receptionist

- Answer general phone line; respond to general office email; greet and assist visitors;
- Respond to general office queries and refer complex queries to supervisor;
- Maintain supervisor's calendar and master calendar of activities for office; make travel arrangements as necessary; schedule and make meeting arrangements;
- Using supervisor's comments/notes and own knowledge draft various documents including forms, procedures, reports, and letters for supervisor's review;
- Maintain office files.

20% Fiscal and Office Support

- Reconcile budgets and pro-card
- Maintain list of accounts receivable for tests and make check deposits;
- Maintain office inventory of supplies, forms, equipment, testing materials;

- Ensure office testing rooms are maintained in a neat and orderly fashion.

25% Testing Clerical Support

- Sign-up clients for various tests;
- Maintain testing sign-up lists; post test types and dates;
- Distribute information about specific requirements for the appropriate test and update clients of changes in time, date, or location.
- Assist with pre and post test activities such as organizing test rooms, providing pencils, and removing items from room after test;
- Resolve routine testing issue that arise during a test, referring complex issues to Director or Assistant Director;
- Assist with receiving/verifying testing materials and packaging and auditing shipments;
- Accept scan-tron exams and process; mail and receive Student Evaluation of instructions;
- In case of emergency, may serve as back-up "second" testing administrator as required to comply with ETS standards.

During the Director's review conference, Ms. Pedersen described her duties, and many of them were consistent with the duties above. For example, Ms. Pedersen stated she greets students, checks photo IDs, records driver's licenses, and seats students. In the absence of a testing administrator, Ms. Pedersen will also read instructions and unlock computer stations, and she shows students where test stations and pencils are located. From her work area, Ms. Pedersen also monitors students who are testing and keeps a record of students who sign in and out for testing. Further, Ms. Pedersen explained that she takes payments and does the associated paperwork and also inputs testing scores into the system.

As part of her duties, Ms. Pedersen also indicated that she prepares rooms for testing and gets the material ready for test administrators, ensuring pencils and other items are in the rooms. Ms. Pedersen also stamps in scan-trons from students and processes them and emails reports to their professors. She also packages testing material and prepares it for shipping via UPS or Fed Ex. Ms. Pedersen claimed she does not make travel arrangements, though she processes travel vouchers and performs some budget reconciliation but not ProCards. Ms. Pederson further stated she no longer audits or inventories shipments and no longer supervises others.

Overall the duties Ms. Pedersen described are consistent with the Secretary classification, which performs "routine secretarial duties" such as scheduling meetings/classes, keeping supervisor's and/or staff member's calendars, producing final copy documents from drafts, and responding to inquiries from staff, students, and/or the public regarding departmental procedures or services. The revised PD indicates that complex queries are

now referred to the Assistant Director, which is further supported by Dr. Beath's statements about the Assistant Director performing a more in-depth assessment of student learning/placement. The distinguishing characteristics of the Secretary class further note that duties are routine and recurring and accomplished by following established work methods or procedures. Those characteristics are consistent with the majority of duties described as receptionist duties (50%) on the revised PD. Additionally, the clerical duties described as clerical support for testing (25%) include the routine and recurring functions like checking photo IDs and checking student's names on a list, or handing out testing materials. While backing up the testing administrator may be considered a higher-level duty, that duty has been identified as one function under the section containing 25% of Ms. Pedersen's assigned duties.

It is undisputed Ms. Pedersen no longer supervises student employees; therefore, a class containing supervisory duties is not appropriate for her position. I did, however, consider the Program Assistant and Program Coordinator classifications. While the Office of Testing and Assessment can be considered a program, the class series concept for the Program Assistant/Coordinator classes notes that positions "[o]rganize and perform work related to program operations *independent of the daily administrative office needs of the supervisor*." In this case, the changes in Ms. Pedersen's assignments now require her to "*perform work related to the daily administrative office needs of the Director and Assistant Director*" (Exhibit 16, page 2). Additionally, many of Ms. Pedersen's previous areas of responsibility such as establishing and implementing procedures or advising students and staff on policies have been assumed by the Assistant Director. Because Ms. Pedersen performs routine secretarial work a majority of the time in an effort to assist the Director and Assistant Director in accomplishing test administration, the secretarial class is a better fit.

For the period of February 25, 2005 through June 16, 2006, Ms. Pedersen's salary should reflect her allocation to the Program Supervisor I classification, as determined in DOP's earlier decision. Further, CWU should review Ms. Pedersen's payroll records to ensure she was paid according to the Program Supervisor I classification from February 25, 2005 through June 16, 2006. However, based on the changes in duties and responsibilities to Ms. Pedersen's position, effective June 16, 2006, I conclude the Secretary classification best describes Ms. Pedersen's position.

Appeal Rights

WAC 357-49-018 provides that either party may appeal the results of the Director's review to the Personnel Resources Board (board) by filing written exceptions to the Director's determination in accordance with Chapter 357-52 WAC.

WAC 357-52-015 states that an appeal must be received in writing at the office of the board within thirty (30) calendar days after service of the Director's determination. The

address for the Personnel Resources Board is 2828 Capitol Blvd., P.O. Box 40911, Olympia, Washington, 98504-0911.

If no further action is taken, the Director's determination becomes final.

Sincerely,

Teresa Parsons
Director's Review Supervisor
Legal Affairs Division

c: Carmen Pedersen
Karla Shugart, CWU
Rachelle Wills, AGO
Lisa Skriletz, DOP

Enclosure: List of Exhibits